

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

RYAN KERWIN,)	
)	
Plaintiff)	Civil Action No. 05-0093E
)	
v.)	
)	
LT. WILLIAM McCONNELL,)	Judge Sean J. McLaughlin
)	
Defendant.)	Electronically Filed.

DEFENDANT’S PROPOSED VOIR DIRE

AND NOW, comes the Defendant by his attorneys, Douglas B. Barbour, Deputy Attorney General, Tracey Wilson, Senior Deputy Attorney General, and Susan J. Forney, Chief Deputy Attorney General, Chief Litigation Section, and respectfully submit the following:

I. Case Summary for use during Voir Dire and Preliminary Charge

Plaintiff, Ryan Kerwin, is an inmate who at all times relevant to this case was incarcerated by the Pennsylvania Department of Corrections (DOC). The defendant, Lieutenant William McConnell, is an employee of the DOC who, at all relevant times, worked in the State Correctional Institution at Albion (SCI-Albion). Plaintiff alleges that the defendant violated his First Amendment rights when he was issued a misconduct in retaliation for having filed a grievance and for filing a prior lawsuit.

Specifically, Plaintiff claims that he was harassed during a strip search prior to transfer from the State Correctional Institution at Smithfield to the State Correctional Institution at Albion, as well as during the bus ride to and from those institutions. Plaintiff also claims that he continued to be harassed after his arrival at SCI- Albion. As

a result of the alleged harassment, the plaintiff filed a grievance against various corrections officers. That grievance was assigned to the defendant, Lieutenant McConnell to conduct an investigation. The defendant conducted an investigation and concluded that no such harassment occurred. As a result, the defendant issued a misconduct to the plaintiff for making false claims of harassment. A misconduct hearing was held and the plaintiff was found guilty of the misconduct and sentenced to 30 days of cell restriction.

The plaintiff is claiming that the defendant issued the misconduct to retaliate against him for having exercised his First Amendment rights by filing the grievance and for filing a previous lawsuit against corrections officers from SCI- Smithfield. Plaintiff also claims that the defendant's stated reason for issuing the misconduct, i.e. his investigation led him to conclude that the grievance contained false claims of harassment, is really a pretext and the real reason Lieutenant McConnell issued the misconduct was to retaliate against the plaintiff.

II. Supplemental Voir Dire Questions

1. Have you, or has any member of your immediate family, ever been the victim of a crime?

Yes _____

No _____

2. If your answer to Question No. 1 is "Yes," would that affect your ability to render a fair and impartial verdict based on the evidence presented in court and the judge's instructions on the law in this case?

Yes _____

No _____

3. Have you or any member of your immediate family ever been employed in law enforcement, either by a state or local police department, government agency, investigative agency, private detective or security guard agency or prosecuting attorney's office?

Yes _____

No _____

4. Have you, or has any member of your immediate family, ever been employed by, or in any way connected with, the Pennsylvania Department of Corrections?

Yes _____

No _____

5. Have you, or has any member of your immediate family, ever been employed in a jail or a prison, or as a parole officer or probation officer?

Yes _____

No _____

6. Would you tend to believe or disbelieve the testimony of a corrections officer, simply because he or she is a corrections officer?

Yes _____

No _____

7. Have you, or has any member of your immediate family, ever been incarcerated in a state or federal prison for conviction of a criminal offense?

Yes _____

No _____

8. Do you have any feeling, opinion or belief concerning the nature or quality of prisons generally, or the actions of employees at the State Correctional Institution at Greene specifically, that would affect your ability to serve as a fair and impartial juror and render a fair and impartial verdict based on the evidence presented in court and the court's instructions on the law in this case?

Yes _____

No _____

9. Have any of you heard or read things in the media which relate to prison conditions that would affect your ability to be a fair and impartial juror?

Yes _____

No _____

10. Have you or any member of your immediate family ever been associated with a group or organization that advocates for the rights of prisoners?

Yes _____

No _____

Respectfully submitted,

Thomas W. Corbett, Jr.,
Attorney General

By: /s/ Tracey A. Wilson
Tracey A. Wilson
Senior Deputy Attorney General
Attorney I.D. No. 64350

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564 Forbes Avenue, Manor Complex

Pittsburgh, PA 15219

Douglas B. Barbour
Deputy Attorney General
Attorney I.D. No. 94105

SUSAN J. FORNEY
Chief Deputy Attorney General
Chief Litigation Section

Date: November 21, 2007

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within **Defendant's Proposed Voir Dire** was electronically filed with the Court and served upon the following via first-class mail:

Ryan Kerwin
Erie CCC
137 W. 2nd Street
Erie, PA 16501

/s/ Tracey A. Wilson
Tracey A. Wilson
Senior Deputy Attorney General

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Date: November 21, 2007